



House of Representatives

General Assembly

File No. 288

January Session, 2017

Substitute House Bill No. 7131

House of Representatives, March 29, 2017

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT EXPEDITING CHILD SUPPORT MODIFICATION ORDERS FOR INCARCERATED OR INSTITUTIONALIZED OBLIGORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-215e of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) Notwithstanding any provision of the general statutes, whenever
4 a child support obligor is institutionalized or incarcerated, the Superior
5 Court or a family support magistrate shall establish an initial order for
6 current support, or modify an existing order for current support, upon
7 proper motion, based upon the obligor's present income and
8 substantial assets, if any, in accordance with the child support
9 guidelines established pursuant to section 46b-215a. Downward
10 modification of an existing support order based solely on a loss of
11 income due to incarceration or institutionalization shall not be granted
12 in the case of a child support obligor who is incarcerated or
13 institutionalized for an offense against the custodial party or the child
14 subject to such support order.

15 (b) In IV-D support cases, as defined in section 46b-231, when the
16 child support obligor is institutionalized or incarcerated for more than
17 ninety days, any existing support order, as defined in section 46b-231,
18 shall be modified to zero dollars effective upon the date that a support
19 enforcement officer files an affidavit in the Family Support Magistrate
20 Division. The affidavit shall include: (1) The beginning and expected
21 end dates of such obligor's institutionalization or incarceration; and (2)
22 a statement by such officer that (A) a diligent search failed to identify
23 any income or assets that could be used to satisfy the child support
24 order while the obligor is incarcerated or institutionalized, (B) the
25 offense for which the obligor is institutionalized or incarcerated was
26 not an offense against the custodial party or the child subject to such
27 support order, and (C) a notice in accordance with subsection (c) of
28 this section was provided to the custodial party and an objection form
29 was not received from such party.

30 (c) Prior to filing an affidavit under subsection (b) of this section, the
31 support enforcement officer shall provide notice to the custodial party
32 in accordance with section 52-57 or by certified mail, return receipt
33 requested. The notice shall state in clear and simple language that: (1)
34 Such child support order shall be modified unless the custodial party
35 objects not later than fifteen calendar days after receipt of such notice
36 on the grounds that (A) the obligor has sufficient income or assets to
37 comply with the support order, or (B) the obligor is incarcerated or
38 institutionalized for an offense against the custodial party or the child
39 subject to such support order; and (2) the custodial party may object to
40 the proposed modification by delivering a signed objection form, or
41 other written notice or motion, indicating the nature of the objection or
42 grounds of the motion, to the support enforcement officer not later
43 than fifteen calendar days after receipt of such notice. Upon receipt of
44 any objection or motion, the support enforcement officer shall
45 promptly arrange with the clerk of the Family Support Magistrate
46 Division to enter the appearance of the custodial party, set the matter
47 for a hearing, send a file-stamped copy of the objection or motion to
48 the IV-D agency of the state to whom the support order is payable, and
49 notify all parties of the hearing date set. The court or family support

50 magistrate shall promptly hear the objection or motion and determine
51 whether the child support order should be modified in accordance
52 with subsection (b) of this section.

53 (d) A support order that is modified in accordance with subsection
54 (b) of this section shall be reinstated to the prior support amount
55 ninety days after the obligor is released from such institutionalization
56 or incarceration, provided a support enforcement officer files an
57 affidavit in the Family Support Magistrate Division that provides: (1)
58 The date such obligor was no longer institutionalized or incarcerated;
59 and (2) a statement by such officer that notice, in accordance with
60 subsection (e) of this section, was provided to the child support
61 obligor, and an objection form was not received from such obligor.

62 (e) Prior to filing an affidavit under subsection (d) of this section, the
63 support enforcement officer shall provide notice to the child support
64 obligor in accordance with section 52-57 or by certified mail, return
65 receipt requested, or by first class, postage prepaid mail to the
66 Connecticut correctional facility in which the obligor is incarcerated.
67 The notice shall state in clear and simple language that: (1) Such child
68 support order shall be reinstated to the previous support amount
69 effective ninety days after the date of the obligor's release unless the
70 obligor objects prior to the ninetieth day to such reinstatement on the
71 grounds that the obligor has insufficient income or assets to comply
72 with the support order; and (2) the obligor may object to the proposed
73 reinstatement by delivering a signed objection form, or other written
74 motion, indicating the nature of the objection or the grounds for the
75 motion, to the support enforcement officer prior to the ninetieth day
76 after the obligor's release date. Upon receipt of the objection or motion,
77 the support enforcement officer shall promptly arrange with the clerk
78 of the Family Support Magistrate Division to enter the appearance of
79 the obligor, set the matter for a hearing, send a file-stamped copy of
80 the objection or motion to the IV-D agency of the state to whom the
81 support order is payable, and notify all parties of the hearing date set.
82 The court or family support magistrate shall promptly hear the
83 objection or motion and determine whether the child support order

84 should be reinstated or otherwise modified in accordance with the
85 child support guidelines established pursuant to section 46b-215a. Any
86 objection filed in accordance with this section shall constitute a proper
87 motion to modify a child support order.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2017	46b-215e
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Statement of Legislative Commissioners:

Subsections (c) and (d) were reordered for clarity.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Judicial Dept.	GF - Savings	97,500	130,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes changes to child support obligations for incarcerated obligators by eliminating service of process costs and replacing it with certified mail costs, resulting in a net savings of approximately \$96,000 annually. There are approximately 3,500 such obligators and the cost of both notifications is approximately \$20,000. Additionally there will be savings of approximately \$150,000 associated with eliminating the service of process requirement currently required for modification orders.¹

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to caseloads.

¹ Assumes obligators are incarcerated and released in the same fiscal year or that the same number of obligators are incarcerated and released in the same fiscal year.

OLR Bill Analysis**HB 7131*****AN ACT EXPEDITING CHILD SUPPORT MODIFICATION ORDERS FOR INCARCERATED OR INSTITUTIONALIZED OBLIGORS.*****SUMMARY**

By law, “IV-D child support cases” are cases in which the Department of Social Services’ Bureau of Child Support Enforcement (BCSE) provides child support enforcement services for children who are Temporary Family Assistance (TFA) or Medicaid beneficiaries, or in foster care.

This bill shortens the child support modification process when an obligor (i.e., person owing child support) is institutionalized or incarcerated for more than 90 days. Under the bill, the obligor’s existing support order (i.e., a court or agency order requiring the obligor to pay child support) is modified to zero and reinstated 90 days after his or her release. Currently, a court order modification or reinstatement requires a full judicial hearing.

The bill specifies steps that a support enforcement officer must follow for the modification and reinstatement to take effect. This includes (1) filing certain affidavits with the Family Support Magistrate Division (FSMD) and (2) providing notice to the child’s custodian and the obligor. The bill also creates a process for any modification or reinstatement objections to be heard and ruled upon by the court or family support magistrate.

EFFECTIVE DATE: October 1, 2017

CHILD SUPPORT ORDER MODIFICATION

For a child support modification under the bill to take effect, a support enforcement officer must file an affidavit with FSMD stating

the obligor's imprisonment or institutionalization start and expected end dates.

It must also state that:

1. the officer's diligent search failed to identify any income or assets that could satisfy the support order during that time,
2. the offense for which the obligor is incarcerated or institutionalized was not against the child who is the subject of the support order or the child's custodian, and
3. notice of this modification was provided to the child's custodian and the officer did not receive an objection form.

The officer must serve a modification notice to the custodian or send it by certified mail, return receipt requested. The notice must clearly and simply state that the:

1. support order will be modified unless the custodian, within 15 days after receiving the notice, objects on the grounds that the obligor (a) has sufficient income or assets to comply with the existing order or (b) is incarcerated or institutionalized for an offense against the custodian or child and
2. custodian may object by delivering a signed objection form or other written notice or motion to the officer within 15 days after the notice's mailing or service date.

CHILD SUPPORT ORDER REINSTATEMENT

Under the bill, a modified support order must be reinstated to the original amount 90 days after the obligor is released, provided the support officer files an affidavit with FSMD stating (1) the date the institutionalization or incarceration ended and (2) that notice was provided to the obligor and the officer did not receive an objection form.

Before filing an affidavit to reinstate a support order, an officer must

(1) serve notice to the obligor or send it to him or her by certified mail, return receipt requested or (2) send notice by first class mail, postage prepaid, to the Connecticut correctional facility in which the obligor is incarcerated. The notice must clearly and simply state that the:

1. support order will be reinstated to the prior amount 90 days after release unless the obligor objects before then on the grounds that he or she has insufficient income or assets to comply with the order and
2. obligor may object to the reinstatement by delivering a signed objection form or other written motion to the officer before the 90 day deadline.

OBJECTIONS

If the officer receives an objection or motion from (1) the custodian about a support order modification or (2) the obligor about a support order reinstatement, the officer must promptly arrange with the FSMD clerk for a hearing, send a file-stamped copy of the objection or motion to DSS, and notify all parties of the hearing date. The court or family support magistrate must promptly hear the objection and determine whether to modify or reinstate the support order in accordance with the child support guidelines, as appropriate.

Any objection filed under the bill constitutes a proper motion to modify a child support order.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 39 Nay 0 (03/10/2017)